



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

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NEW YORK, NEW YORK 10007-1886

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October 21, 2002

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Anthony D. Pistone, Esq.
Suite 205
163-10 Northern Boulevard
Flushing, NY 11358

Re: Nelson Galvanizing Superfund Site, New York City, Queens County, New York:
Request for Information Pursuant to the Comprehensive Environmental Response,
Compensation, and Liability Act, 42 U.S.C. §9601, et seq.

Dear Mr. Pistone:

Following our conversation of Monday, October 21, 2002, enclosed is another copy of EPA's letter dated February 1, 2000 which was addressed to your clients John T. Sweeney, Nelson Galvanizing, Inc. and Nelson Foundry, Inc. and sent to them care of you as counsel.

On February 1, 2000, the United States Environmental Protection Agency ("EPA") wrote to your clients, John T. Sweeney in his individual capacity and also in his capacity as an officer, director and shareholder of Nelson Galvanizing, Inc. and Nelson Foundry, Inc. On February 4, 2000, your office accepted EPA's letter on behalf of your clients. In its February 1, 2000 letter, EPA requested that Mr. Sweeney provide to EPA certain information which related to an environmental cleanup action that EPA was about to undertake at the Nelson Galvanizing facility at 11-02 Broadway in Queens County, New York (the "Nelson Site"), a property owned by Nelson Foundry, Inc., and operated by Nelson Galvanizing, Inc. and by John T. Sweeney, individually.

Both EPA's environmental cleanup action at the Nelson Site, as well as its February 2, 2000 request for information, were authorized by federal law, specifically, the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 *et seq.*, ("CERCLA").

EPA's letter of February 2, 2000, EPA informed your clients that Section 104(e) of CERCLA, 42 U.S.C. §9604(e) provided EPA with the legal authority to require your clients to furnish the requested information and directed that they provide that information to EPA within 21-days of

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receipt of EPA's request. EPA's letter also notified your clients that EPA was authorized by law to seek penalties in the event that they failed to comply with EPA's request.

You and I have spoken numerous times by telephone and we have also corresponded regarding your clients' required response to EPA's February 1, 2000 request for information. You advised me that your client would address EPA's request and would provide the requested information. By letter dated May 23, 2000, you wrote to me and requested additional time for your client to respond to EPA's request for information. By letter dated June 7, 2000, I wrote to you and provided you with an additional copy of EPA's request for information, as requested by you, because, you told me, your client had lost the original letter.

EPA believes that your client's continuing failure to comply with EPA's request for information issued pursuant to paragraph (2) of Section 104(e), 42 U.S.C. §104(e)(2) is unreasonable. Your attention is directed to Section 104(e)(5)(B), 42 U.S.C. §9604(e)(5)(B) providing for enforcement options and civil penalties in the event of noncompliance.

Please be advised that EPA would be willing to meet with you and your clients to discuss their legal obligations under Section 104(e) of CERCLA, 42 U.S.C. §104(e), and possible enforcement action which might be instituted by EPA in connection with their failure to provide a response.

Should you wish to meet with EPA, or should you have any questions regarding this matter, please contact Michael A. Mintzer at (212) 637-3168.

Sincerely yours,

Michael A. Mintzer
Assistant Regional Counsel
Office of Regional Counsel

bcc: Jeffrey Bechtel, ERRD, RPB ✓